IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14432 of 2000

Between:

1 C.G.V. Baram, S/o Late C.G.V. Desigan
Sri Andal Arangamannar Namalwar Temple Near E.M.E. Family Quarters, Tirumalgherry
Secunderabad.
2 M.K.Khanna S/o Madurai Mani
Sri Andal Arangamannar Namalwar Temple Near E.M.E. Family Quarters, Tirumalgherry
Secunderabad.
3 Mrs. Dhanalaxmi Ammal W/o Late C.G.V. Desigan
Sri Andal Arangamannar Namalwar Temple Near E.M.E. Family Quarters, Tirumalgherry
Secunderabad.
4 N.Sekhar S/o Late Nagabushnam
Sri Andal Arangamannar Namalwar Temple Near E.M.E. Family Quarters, Tirumalgherry
Secunderabad.
5 Sampath kumar Gyan S/o Late C.G.V. Desigan
Sri Andal Arangamannar Namalwar Temple Near E.M.E. Family Quarters, Tirumalgherry
Secunderabad.

...PETITIONERS

AND

1 The Union of India, Rep. By its Secretary,Ministry of Defence.
New Delhi.
2 The Cantonment Board , Rep. by its Executive officer
Secunderabad.
3 The Military Estate officer, Cantonment Board Compound,
Secunderabad.

4 The Sub-Area Commandant for A.P.
Bolarum, Secunderabad.
5 The Commandant,
M.C.E.M.E., Secunderabad-500015.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of Respondents their agents and servants in illegal interference with the possession and enjoyment as well trying to dispossess the petitioners from the occupation of land admeasuring Ac.01.16 gts in G.L.R.Nos. 240 & 241 of Tirumalgherry village, Secunderabad cantonment without following due process of law as illegal, Arbitrary and violative of Article-14, 19, 21 & 300-A of the Constitution of India and consequently directing the respondents not to interfere with the possession and enjoyment of Ac.01.16 gts. of G.L.R.Nos.240 & 241 of Tirumalgherry village, Secunderabad Cantonment.

Counsel for the Petitioners: MR.P.M.GOPAL RAO

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for Respondent No.2: MR.DEEPAK BATTACHARJEE

The Court made the following:

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

The petitioners claim to be residing in the premises of a temple dedicated to deities Maariyamma, Lord Venkateswara and Alwars in an extent of Ac.01.16 gts in GLR Nos.240 and 241 of Secunderabad Cantonment. They claim that the father-in-law of the third petitioner, Chinnathambi, who was a Quarter Master Hawaldar (QMH), constructed the said temple known as Sri Andal Arangamannar and Sri Namalwar Sannidi in year 1894. They also urged that they have obtained electricity connection from Electricity Board and paying electricity charges regularly. It is their grievance that the fifth respondent namely the Commandant, MCEME, Secunderabad made repeated attempts threatening the petitioners and other residents in the temple premises with forcible eviction without due process of law. Therefore, they filed the present Writ Petition praying this Court for a direction to the respondents not to interfere with the possession of the petitioners without due process of law.

This Court while admitting the Writ Petition on 07.08.2000 passed interim orders directing the respondents not to interfere with the possession of the petitioners. Respondent Nos.1, 3, 4 and 5 have filed W.V.M.P.No.3801 of 2003 on 20.11.2003. Though the interlocutory applications are coming up for hearing, the matter is being heard finally and disposed of the Writ Petition at the interlocutory stage with consent of respective counsel.

A counter-affidavit on behalf of the respondents is filed by Defence Estates Officer. It is stated that the land in GLR.No.239 (General Land Registration number) admeasuring Acs.41.32 gts in Secunderabad Cantonment is the property of the Central Government classified as A (1) which is under the management of Pat Master General. The armed forces constructed two temples namely the temple Maariyamma and temple of Vishnu in GLR.No.239. As per the land policy, the area where the religious structures are raised is erected as A (1) land and accordingly the land occupied by the temples was classified as B (3) and were not GLR Nos.240 and 241. Even in the records, the occupancy rights are in favour of Cantonment unit and the petitioners are not in any manner possession of the land. The land is however under the management of the QMG Armed Headquarters. It is alleged that petitioners herein encroached Class A (1) land surrounding the two temples. When the respondents are about to initiate action under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 ('the Act' for brevity), the petitioners approached this Court and filed W.V.M.P.No.3801 of 2003 and obtained interim orders. Allegations made in the petitioners'-affidavit that the respondents are threatening and harassing the petitioners and trying to dispossess them are denied.

A reading of the writ-affidavit and the counter-affidavit filed by the respondents would show that the Writ Petition is filed on mere apprehension. Further, the learned

counsel for the Central Government submits that no action was contemplated for demolition of the temples existing and GLR No.239 is classified as A (1) {re-classified as B (3) and GLR Nos.240 and 241}. The same is recorded. It is made clear that if the petitioners are in possession of the land in GLR Nos.240 and 241, they shall have to be removed from the Government land only in accordance with the provisions of the Act. Till such action is taken, there shall be *status quo* as on today. Learned standing counsel for Cantonment also submits that the petitioners herein made various constructions without permission under Sections 179 to 181 of Cantonments Act, 1924. If that be so the Cantonment may take action in accordance with law.

The Writ Petition is accordingly disposed of.

_____

(V.V.S.RAO, J)

3rd August 2004

RRB

Copies to:

1. The Secretary, Ministry of Defence, Union of India, New Delhi.

2. The Executive Officer, Cantonment Board, Secunderabad.

3. The Military Estate officer, Cantonment Board Compound, Secunderabad.

4. The Sub-Area Commandant for A.P., Bolarum, Secunderabad.

5. The Commandant, M.C.E.M.E., Secunderabad-500015.

6. Two CCs to the Standing Counsel for Central Government.

7. Two CD copies.